



U.S. Department
Of Transportation
Pipeline and
Hazardous Materials
Safety Administration

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

OVERNIGHT EXPRESS MAIL

April 04, 2012

Mr. William Zipf, Jr., Vice President
Eastern Shore Natural Gas Company
1110 Forrest Avenue, Suite 201
Dover, Delaware 19904

CPF 1-2012-1002

Dear Mr. Zipf:

During the week of May 16, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your natural gas transmission system in Dover, Delaware.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. **§ 192.616 Public Awareness**
(g) The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

The Operator failed to evaluate the size and groups of non-English speakers in its service territory. Thus it took no action to educate any affected groups in its Public Awareness Program. In a review of the operator's program, the inspection revealed that the operator had no procedures addressing the requirement; the operator was unaware that it might have sizable concentrations of non-English speakers in its service territory.

The discovery was made in a review of the operator's Public Awareness, its Public Awareness Program, and its Public Awareness circulars.

2. § 192.465 External corrosion control: Monitoring

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463.

The operator failed to test CP at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463.

The Operator failed to perform annual monitoring of cathodic protection at 17 test stations for a total of 29 missed readings.

The findings are based on a review of the operator's records and the following:

1. Corrpro 2008 CP Survey, dated 12/31/2008
2. Corrpro 2009 CP Survey, dated 2/19/2010
3. ESNG 2010 CP Survey, dated 1/26/2011
4. Summary sheet of Action Items.
5. Inspector notes with extracted information from ESNG CP Field Records.
6. ESNG Procedures Subsection 330 – Corrosion Requirements.

3. 192.605 Procedural manual for operations, maintenance, and emergencies

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and Subpart M of this part.

The operators patrol program procedure (Procedures Subsection 310, paragraph 312) failed to include direction to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation in accordance with 192.705(a).

The operator required its facilities to be patrolled on foot or by aerial surveillance 4 times per year. The operator has records to demonstrate compliance with the specified time interval. However, there are apparent weaknesses in the patrolling procedures. There is no direction to look for missing line markers, canopy coverage, missing casing vents. The procedures fail to direct the patroller to seek out more than leaks and construction activity.

4. **§192.605 Procedural manual for operations, maintenance, and emergencies.**
(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

Eastern Shore's operating procedures failed to include a process to verify the training of appropriate operating personnel, to assure that they are knowledgeable of the procedures in the emergency plan and to verify that the training is effective. This requirement is stated in §192.615(b)(2). Additionally, Eastern Shore had no records to demonstrate compliance with the requirement.

During the inspection, Eastern Shore presented Section X, Training and Education, of its Emergency Procedures Manual in which there were no specifics to verify that its personnel were knowledgeable in the training provided, nor to verify the effectiveness of the emergency procedure training. On June 10, 2011, Eastern Shore sent the inspector an updated Section X, making changes to satisfy the requirement.

5. **§192.709 Transmission Line: Record keeping**
Each operator shall maintain the following records for transmission line for the periods specified:
(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

During 2009, Eastern Shore failed to document that it had operated its valves that might be used in an emergency at the Delaware City Compressor Station. In a review of the records for 2009, the entire column entitled "Valve Turned" was left blank.

6. **§192.605a General**
(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

Eastern Shore failed to follow its procedures which state that it will perform electrical tests annually during the annual CP surveys to assure that electrical isolation is adequate.

The table below lists locations in the areas protected by the Elbow Crossing and the Salem church rectifiers where the operator failed to perform the annual monitoring of the adequacy of the electrical isolation on casings. The operator's procedures, Subsection 330, states in paragraph 332.5.3.1, that *the effectiveness of the insulators shall be checked during the [annual] corrosion survey by taking a pipe to soil voltage read of the casing vent or the appropriate test station.*

At the test stations below, the insulators were not tested during the annual corrosion survey. Therefore, the operator failed to follow its procedures with respect to § 192.467(d) which states: *Inspection and electrical tests must be made to assure that electrical isolation is adequate.*

Table shows years where no electrical test was performed.

Test Station	Year(s)	Code Sec.	Record note	Operator Comment
Elbow Lane				
F4	2008-2009	192.467d	Tested pipe but not casing in 2009	
F15	2009	192.467d	No Reading – Casing	Inadvertent
F18	2009	192.465a	No Reading -area flooded.	Safety
FV3	2009	192.467d	No Reading Area flooded	Safety
P31	2006-2008	192.467d	Casing vent missing 2006-2008	Accessed in 2010.
P31	2006-2008	192.467d	Missing vent = missing test station.	
P34S	2008-2009	192.467d	Could not locate – Study says ROW needs maintenance.	
Salem Church				
H2A	2008-2010	192.467d	Could not locate, No vent. 2008 study said to replace.	Still uncorrected.
H4	2008-2010	192.467d	Vent missing. 2008 study said to replace.	Still uncorrected.

The above findings are based on a review of the operator's records and the following:

1. Corrpro 2008 CP Survey, dated 12/31/2008
2. Corrpro 2009 CP Survey, dated 2/19/2010
3. ESNG 2010 CP Survey, dated 1/26/2011
4. Summary sheet of Action Items.
5. Inspector notes with extracted information from ESNG CP Field Records.
6. ESNG Procedures Subsection 330 – Corrosion Requirements.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$34,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$34,600

Warning Items

With respect to items 4, 5 and 6, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these item(s). Be advised that failure to do so may result in Eastern Shore being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 1 and 3, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Eastern Shore. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

Please send all correspondence in this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. Please refer to **CPF 1-2012-1002** on each document you submit, and please whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to Byron.Coy@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Sincerely,



Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Eastern Shore Natural Gas Company (Eastern Shore) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Eastern Shore with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to extending its Public Awareness Program to non-English-speaking groups: Eastern Shore must identify, establish threshold levels of non-English-speaking individuals in proximity to the pipeline, and establish a means to communicate with them with respect to the requirements of §192.616. Eastern Shore shall establish a procedure and frequency to conduct a demographic analysis within 90 days of execution of the Final Order to determine the numbers and language groups of non-English speakers in its present Public Awareness areas. If the numbers of non-English speakers in a given group exceed threshold levels, the operator shall establish a procedure to incorporate them into the Public Awareness Program within 120 days of execution of the Final Order. Within 180 days of execution of the Final Order, Eastern Shore shall have the revisions to the Public Awareness in effect. Within 10 days of each of the above three benchmark deadlines, Eastern Shore shall provide PHMSA-Eastern Region with documentation to confirm its compliance.
2. In regard to Item Number 3 of the Notice pertaining to patrolling of transmission lines, Eastern Shore shall expand Procedure Subsection 310, paragraph 312 to identify the apparent factors that could affect the safety or operation of its pipeline. The enhancements must also provide guidance to maintain the right-of-way to assure the right-of way is accessible during the selected mode of patrolling and during other maintenance functions and emergency response. Eastern Shore shall provide PHMSA – Eastern Region with the revised procedures within 30 days of the Execution of the final Order. .
3. It is requested (not mandated) that Eastern Shore maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.